

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

J. AMERICA, INC., and J AMERICA RETAIL PRODUCTS,
INC.,

Plaintiffs,

v.

THE FINISH LINE, INC. and APPAREL TRENDS, INC.,

Defendants.

Case No. 1:07-cv-348

Hon. Paul L. Maloney

Order
Staying Case Pending Resolution of Bankruptcy Proceedings

According to a notice filed with this court on August 24, 2007 [docket #21], defendant Apparel Trends, Inc. (“Apparel Trends”) filed a petition for Chapter 7 bankruptcy relief in the United States Bankruptcy Court for the Southern District of Texas on August 22, 2007. Apparel Trends attached a copy of said petition, and an online review of that court’s docket confirms the filing.

Title 11 U.S.C. § 362(a) provides:

Except as provided in subsection (b) of this section [criminal,¹ family-law, domestic violence, tax-refund and other specified matters], *a petition filed under section 301,*

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For an explanation of the policy considerations underlying § 326(b)(1)’s criminal-case exception to the automatic stay provision, *see In re Dorsey*, Nos. 05-37927 and 06-3343, 2007 WL 2288038, at *3-4 (N.D. Ohio Aug. 6, 2007) (Speer, U.S. Bankr. J.). For an explanation of the policy considerations underlying § 326(b)(4)’s government-agency police-power exception to the automatic stay provision, *see In re Smith-Goodson*, 144 B.R. 72, 73-74 (Bankr. S.D. Ohio 1992).

302, or 303 of this title . . . operates as a stay, applicable to all entities, of –

- (1) *the commencement or continuation, including the issuance or employment of process, of a judicial, administrative or other action or proceeding that was or could have been commenced before the commencement of the case under this title, or to recover against the debtor that arose before the commencement of the case under this title;*
- (2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;
- (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;
- (4) any act to create, perfect or enforce any lien against property of the estate;
- (5) any act to create, perfect or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;
- (6) any act to collect, assess or recover a claim against the debtor that arose before the commencement of the case under this title;
- (7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title;
- (8) the commencement or continuation of a proceeding before the United States Tax Court

Emphasis added. *See In re Curry*, 347 F.3d 596, 603 (6th Cir. BAP 2006) (“Because the vehicle is property of the debtor’s bankruptcy estate, the automatic stay provisions of 11 U.S.C. § 362(a) apply.”).²

Title 11 U.S.C. § 362(c) provides, in pertinent part,

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See, e.g., In re MRL Residential Leasing, Inc., No. 96-1847, 121 F.3d 709, 1997 WL 453163, at *1 (6th Cir. Aug. 8, 1997) (“Ms. Mitan filed for bankruptcy under Chapter 13, thereby staying Investaid’s foreclosure proceeding.”); *Durbin v. Farm Serv. Agency*, No. 2:05cv566, 2007 WL 1114586, at *4 (S.D. Ohio Apr. 13, 2007) (“[T]he bankruptcy stay prevented NAD from taking any action that could affect matters or assets before the Bankruptcy Court”).

Except as provided in subsections (d), (e), (f) and (h) of this section –

- (1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate;
- (2) *the stay of any other act under subsection (a) of this section continues until the earliest of –*
 - (A) *the time the case is closed; [or]*
 - (B) *the time the case is dismissed; or*
 - (C) *if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12 or 13 of this title, the time a discharge is granted or denied*

Emphasis added.

Accordingly, this action is **STAYED** until further order.

Defendant Apparel Trends **SHALL FILE** a notice informing this court as soon as its case in the U.S. Bankruptcy Court for the Southern District of Texas has been dismissed or otherwise closed or discharge has been granted or denied, whichever occurs first.

IT IS SO ORDERED.

August 27, 2007

/s/ Paul L. Maloney

Honorable Paul L. Maloney
United States District Judge